

THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Address: 6 Xi Tu Cheng Lu, Haidian, Beijing

Post Code: 100088

Applicant:	CANON KABUSHIKI KAISHA	Date of Notification: Date: <u>09</u> Month: <u>07</u> Year: <u>2004</u>
Attorney:	FENG PU	
Application No.:	02150223.4	
Title of the Invention:	DYNAMIC NETWORK DEVICE RECONFIGURATION	

Notification of the First Office Action

1. ☒ The applicant requested examination as to substance and examination has been carried out on the above-identified patent application for invention under Article 35(1) of the Patent Law of the People's Republic of China(hereinafter referred to as "the Patent Law").
☐ The Chinese Patent Office has decided to examine the application on its own initiative under Article 35(2) of the Patent Law.
2. ☒ The applicant claimed priority/priorities based on the application(s):
filed in US on Nov. 6, 2001, filed in _____ on _____,
filed in _____ on _____, filed in _____ on _____,
filed in _____ on _____, filed in _____ on _____,
☒ The applicant has provided the priority documents certified by the Patent Office where the priority application(s) was/were filed.
☐ The applicant has not provided the priority documents certified by the Patent Office where the priority application(s) was/were filed and therefore the priority claim(s) is/are deemed not to have been made under Article 30 of the Patent Law.
☐ The application is a PCT continuation.
3. ☐ The applicant submitted amendments to the application on _____ and on _____, wherein the amended _____ submitted on _____ and the amended _____ submitted on _____ are not acceptable, because said amendments do not comply with ☐Article 33 of the Patent Law.
☐Rule 51 of the Implementing Regulations of the Patent Law.
The specific reasons why the amendments are not allowable are set forth in the text portion of this Notification.
4. ☒ Examination as to substance was directed to the initial application documents as filed.
☐ Examination as to substance was directed to the documents as specified below:
pages _____ of the description, claims _____ and pages _____ of the drawings submitted on _____,
pages _____ of the description, claims _____ and pages _____ of the drawings submitted on _____,
pages _____ of the description, claims _____ and pages _____ of the drawings submitted on _____,
the abstract submitted on _____, and the figure for the abstract submitted on _____.
5. ☐ This Notification is issued without search reports.
☒ This Notification is issued with consideration of the search results.
☒ Below is/are the reference document(s) cited in this Office Action(the reference number(s) will be used throughout the examination procedure):

No.	Number(s) or Title(s) of Reference(s)	Date of Publication (or the filing date of conflicting application)
1	CN1302398A	Date: <u>4</u> Month: <u>7</u> Year: <u>2001</u>
2		Date: __ Month: __ Year: __
3		Date: __ Month: __ Year: __
4		Date: __ Month: __ Year: __
5		Date: __ Month: __ Year: __

6. Conclusions of the Action:

☒ On the Specification:

- ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.
- ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.
- ☒ The draft of the description does not comply with Rule 18 of the Implementing Regulations.

☒ On the Claims:

- ☒ Claim(s) 37,38 is/are not patentable under Article 25 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with the definition of inventions prescribed by Rule 2 paragraph 1 of the Implementing Regulations.
- ☐ Claim(s) _____ does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.
- ☒ Claim(s) 36 does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) _____ does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with Article 26 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with Article 31 paragraph 1 of the Patent Law.
- ☒ Claim(s) 29 does/do not comply with the provisions of Rules 20-23 of the Implementing Regulations.
- ☐ Claim(s) _____ does/do not comply with Article 9 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with the provisions of Rule 12 paragraph 1 of the Implementing Regulations.

7. In view of the conclusions set forth above, the Examiner is of the opinion that:

- ☐ The applicant should make amendments as directed in the text portion of the Notification.
- ☒ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will not be allowed.
- ☐ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.
- ☐

8. The followings should be taken into consideration by the applicant in making the response:

- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 4 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.
- (2) Any amendments to the application should be in conformity with the provisions of Article 33 of the Patent Law. Substitution pages should be in duplicate and the format of the substitution should be in conformity with the relevant provision contained in "The Examination Guidelines".
- (3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.
- (4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.

9. This Notification contains a text portion of 2 pages and the following attachments:

- ☒ 1 cited reference(s), totaling 4 pages. ☐

Examination Dept. 3 Examiner: Hu Xubin Seal of the Examination Department

Text of the First Office Action

As described in the specification, the present application relates to a dynamic network device reconfiguration. After examination, the following opinions are provided.

1. The subject matter sought for protection by claim 37 belongs to the scopes that can not be granted a patent right stipulated by Article 25, paragraph 1, item (2) of the Chinese Patent Law. The subject matter of claim 37 is computer-executable process steps stored on a computer readable medium, but the substance of the process steps is a computer program, which belongs to the rules and methods for mental activities. Therefore, the computer-executable process steps do not belong to the subject matters protected by the current Chinese Patent Law.

2. The subject matter sought for protection by claim 38 belongs to the scopes that can not be granted a patent right stipulated by Article 25, paragraph 1, item (2) of the Chinese Patent Law. The subject matter of claim 37 is a computer readable medium which stores computer-executable process steps. However, the physical characteristics of the computer-readable medium does not have any changes and the substance of the subject matter sought for protection is the computer program stored on the computer-readable medium, which belongs to the rules and methods for mental activities. Therefore, the computer-readable medium characterized by the computer program does not belong to the subject matters protected by the current Chinese Patent Law.

3. The technical solution sought for protection by claim 29 does not comply with the provision of Rule 20, paragraph 1 of the Implementing

Regulations of the Chinese Patent Law. There lacks a period in the end of claim 29, which renders the protection scope of claim 29 unclear.

4. Claim 36 does not possess inventive step, which does not comply with the provision of Article 22, paragraph 3 of the Chinese Patent Law. Claim 36 seeks to protect a computing device which comprises a program memory and a processor. The reference document 1 (CN1302398A) has disclosed an electronic book system with the following technical features (please refer to abstract and claim 1 of the reference document 1): the hand held computing device comprises a processor and a memory, wherein the processor is programmed to response to the selection displayed for the user to consult the subject matter of the books, and the memory stores a plurality of subject matters. The difference between the technical solution sought for protection by claim 36 and the technical contents disclosed in the reference document 1 lies in that the contents stored in the memory are different. That is, the reference document 1 has already disclosed the hardware structure of claim 36. However, such difference is a non-technical feature and such non-technical feature does not make any creative contribution to the device. Therefore, claim 36 does not possess prominent substantive features and does not represent a notable progress and thus does not possess inventive step.

5. The draft manner of the specification does not comply with the provision of Rule 18, paragraph 2 of the Implementing Regulations of the Chinese Patent Law. The specification should include the following five parts: technical field, background art, contents of the invention, description of the figures and mode of carrying out the invention and the corresponding sub-head should be written before each portion of the specification. In addition, the invention title also is unclear, which does not comply with the provision of Rule 18, paragraph 1 of the Implementing Regulations of the Chinese Patent Law. The invention title

should clearly and concisely state the subject matter and type (apparatus or method) of the invention.

6. The reference sign “49” mentioned in the specification (please refer to page 10, line 23 of the specification) does not appear in Figure 3 and the reference sign “87” (please refer to page 11, line 9 of the specification) represents different meanings in the specification and in the Figures, which does not comply with the provision of Rule 19, paragraph 3 of the Implementing Regulations of the Chinese Patent Law. The applicant should amend the specification or the accompanying drawings to overcome the above defects. In addition, the “N/W” in Figure 6 is not a common used technical term in the related art and it is suggested to be amended as “network” so as to make it consistent with the specification. There is a typing error in step S1004 of the Figure 10.

7. There is a unclear expression in the specification as “read-only” (please refer to page 12, line 2 of the specification), which does not comply with the provision of Rule 18, paragraph 3 of the Implementing Regulations of the Chinese Patent Law. The applicant should amend the specification to overcome the above stated defect.

The applicant should respond to the above examination opinions illustrated in this Office Action within the prescribed time limits. The applicant should amend the application documents if necessary. Otherwise, the present application will be rejected. It should be noted by the applicant that the amendment to the application documents should be in conformity with the requirements stipulated in Article 33 of the Chinese Patent Law, i.e., it can not go beyond the disclosure contained in the original specification and claims.

The amended documents to be submitted by the applicant shall include: 1)

a copy of the original documents concerning the part due to be amended, in which any insertion, deletion or replacement should be marked; 2) a set of reprinted substitute sheets, which will be used to replace the corresponding original part. The applicant should ensure the consistent of the aforementioned two parts in content.



中华人民共和国国家知识产权局

邮政编码: 100037

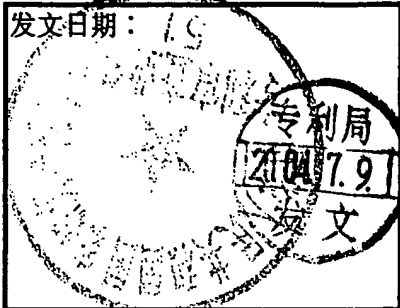
北京市阜成门外大街2号8层
中国国际贸易促进委员会专利商标事务所

冯谱

F022584

申请号: 02150223.4

发文日期: 19



申请人: 佳能株式会社

发明名称: 动态网络设备重新配置

第一次审查意见通知书

1. ☒ 依申请人提出的实审请求, 根据专利法第35条第1款的规定, 审查员对上述发明专利申请进行实质审查。

☐ 根据专利法第35条第2款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以其在:

US 专利局的申请日 2001年11月6日 为优先权日,

专利局的申请日 为优先权日,

专利局的申请日 为优先权日,

专利局的申请日 为优先权日,

☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。

☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第30条的规定视为未提出优先权要求。

3. ☐ 申请人于____年__月__日和____年__月__日提交了修改文件。

经审查, 其中: ____年__月__日提交的____不符合实施细则第51条的规定;

____年__月__日提交的____不符合专利法第33条的规定。

4. ☒ 审查是针对原始申请文件进行的。

☐ 审查是针对下述申请文件进行的:

说明书 申请日提交的原始申请文件的第____页;

____年__月__日提交的第____页; ____年__月__日提交的第____页;

____年__月__日提交的第____页; ____年__月__日提交的第____页;

权利要求 申请日提交的原始申请文件的第____项;

____年__月__日提交的第____项; ____年__月__日提交的第____项;

____年__月__日提交的第____项; ____年__月__日提交的第____项;

附图 申请日提交的原始申请文件的第____页;

____年__月__日提交的第____页; ____年__月__日提交的第____页;

____年__月__日提交的第____页; ____年__月__日提交的第____页;

说明书摘要 ☐ 申请日提交的; ☐ ____年__月__日提交的;

摘要附图 ☐ 申请日提交的; ☐ ____年__月__日提交的。

5. ☐ 本通知书是在未进行检索的情况下作出的。

☒ 本通知书是在进行了检索的情况下作出的。

☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):





第一次审查意见通知书正文

申请号：02150223.4

如说明书所述，本申请涉及一种动态网络设备重新配置。经审查，现提出如下审查意见。

1、权利要求 37 的申请主题属于专利法第 25 条第 1 款第 2 项规定的不授予专利权的范围。权利要求 37 的申请主题为一种计算机可执行过程步骤，存储在计算机可读介质上，该过程步骤实际上就是一种计算机程序，而计算机程序本身属于智力活动的规则和方法。所以计算机可执行过程步骤不属于专利法保护的客体。

2、权利要求 38 的申请主题属于专利法第 25 条第 1 款第 2 项规定的不授予专利权的范围。权利要求 38 的申请主题为一种计算机可读介质，该计算机可读介质存储了计算机可执行过程步骤。实际上计算机可读介质的物理特性没有发生任何变化，申请主题的实质是记录在该计算机可读介质上的计算机程序。而计算机程序本身属于智力活动的规则和方法。所以以计算机程序为特征的这种计算机可读介质不属于专利法保护的客体。

3、权利要求 29 所请求保护的技术方案不符合专利法实施细则第 20 条第 1 款的规定。权利要求 29 在句子的末尾缺少一个句号，导致了该权利要求所请求保护范围的不清楚。这是因为：权利要求的保护范围是由权利要求中记载的技术特征的集合作为一个整体来限定的，因此每一项权利要求只允许在其结尾处使用句号。

4、权利要求 36 不具备创造性，不符合专利法第 22 条第 3 款的规定。权利要求 36 请求保护一种计算机设备，该计算设备包括了存储器和处理器。对比文件 1（CN1302398A）公开了一种电子书籍系统，并具体公开了以下的技术特征（参见对比文件 1 的摘要、权利要求 1）：该手持计算设备包含了处理器、存储器，其中处理器编程为通过所述步骤来响应用户为了查阅对著作专题所显示的选择，存储器存储了多个专题。该权利要求所要求保护的技术方案与该对比文件所公开的技术内容相比，其区别仅在于存储器中所存储的内容的不同，即对比文件 1 已经公开了该权利要求中的硬件结构。然而这种区别是一种非技术性的特征，而所述非技术性的特征对该设备未做出创造性的贡献，因此该权利



要求不具备突出的实质性特点和显著的进步，因而不具备创造性。

5、说明书的撰写不符合专利法实施细则第 18 条第 2 款的规定，说明书应当包含以下内容：技术领域、背景技术、发明内容、附图说明和具体实施方式五个部分，并在说明书每个部分前面写明相应的小标题，而本发明的说明书并未按照该款的规定所撰写。另外该发明的发明名称也是不清楚的，不符合专利法实施细则第 18 条第 1 款的规定，发明名称必须清楚、简明地反映要求保护发明的主题和类型（产品或者是方法），而该发明名称“动态网络设备重新配置”不能清楚地反映出其主题和类型。

6、本申请的说明书文字部分提及的附图标记“49”（见说明书第 10 页第 23 行）在附图 3 中没有出现、“87”（见说明书第 11 页第 9 行）在说明书和附图中所代表的含义不同（应该是“元件资料档案库模块”）等等，不符合实施细则第 19 条第 3 款的规定。申请人应当对说明书或者附图进行修改，克服上述缺陷。另外，附图 6 中出现的“N/W”不是本领域的常用术语，建议改成“网络”，以与说明书第 12 页最后一行提到的“多功能网络设备”相一致；附图 10 第 S1004 步骤中的“垢”是一个错误之处，应该是“后”。

7、本申请的说明书存在不清楚之处，如“只读”（见说明书第 12 页第 2 行）等等，不符合专利法实施细则第 18 条第 3 款的规定。申请人应当对说明书进行修改，克服上述缺陷，同时注意修改不得超出原申请文件记载的范围。

申请人应当在本通知书指定的答复期限内作出答复，对本通知书提出的问题逐一进行答复，必要时应修改专利申请文件，否则本申请将难以获得批准。申请人对申请文件的修改应当符合专利法第 33 条的规定，不得超出原说明书和权利要求书记载的范围。申请人在提交修改文本时应当提交：第一，修改涉及的那一部分原文的复印件，并在该复印件上标注出所作的增加、删除或替换；第二，重新打印的替换页，用于替换相应的原文。申请人应当确保上述两部分在内容上的一致性。

审查员：



2004 年 6 月 7 日